



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Hayek et al.  
Serial No. : 09/845,941  
Filed : April 30, 2001  
Title : PET FOOD COMPOSITION FOR REDUCING INFLAMMATORY  
RESPONSE IN CATS  
Docket No. : IAM 0618 PA  
Examiner : M. Bahar  
Art Unit : 1617

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

CERTIFICATE OF MAILING	
I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231, on November 13, 2001.	
<i>Susan M. Juma</i> Agent	Reg. No. 38,769

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RESPONSE TO OFFICE ACTION

This paper is being filed in response to the Office Action mailed August 24, 2001. Reconsideration and reexamination are respectfully requested in light of the amendments and remarks below.

REMARKS

Applicants initially wish to affirm the election of claims 1-5. Applicants request rejoinder of non-elected claims 6-9 once product claims 1-5 are found to be allowable. Commissioner's Notice dated Feb. 28, 1996, 1184 OG 86.

Claims 1-5 have been rejected under 35 U.S.C. 112, first and second paragraphs. The Examiner asserts that the recitations "dry" and "on a dry matter basis" are not defined in the specification and could not be determined by one skilled in the art. However, applicants submit that these terms are well understood by those skilled in the art. Enclosed herewith are pages from the FDA website regarding pet food labels which set forth the definition and determination of dry matter with regard to canned and dry pet food. Applicants submit that the terms "dry" and "dry matter basis" are well known by those skilled in the art and that the scope of the claims is clear. Claims 1-5 are in compliance with §112, first and second paragraphs. ✓

Claims 1-5 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Pscherer et al., WO 97/19683. Pscherer et al. teach a lipid emulsion for providing nutrition to humans exhibiting exaggerated inflammatory response which includes vegetable oils as a source of omega-6 fatty acids and fish oils as a source of omega-3 fatty acids.

However, while Pscherer et al. teach omega-6 and omega-3 fatty acids, they do not teach or suggest a composition in which **the majority of omega-3 fatty acids comprise alpha-linolenic acid** as recited in claim 1. Rather, Pscherer et al. teach fish oil as a source of omega-3 fatty acids which primarily contains eicosapentaenoic acid and docosahexaenoic acid as acknowledged by the Examiner.

Further, Pscherer et al. do not teach or suggest the use of flaxseed oil as a source of alpha-linolenic acid as acknowledged by the Examiner. The Examiner has reasoned that one skilled in the art would have used flaxseed oil as a source of alpha-linolenic acid in Pscherer in view of the UC Berkeley Wellness Letter, which discloses that flaxseed and flaxseed oil are the best sources of alpha-linolenic acid. However, there is no motivation for one to substitute flaxseed oil for the fish oil used in Pscherer et al. as Pscherer et al. do not teach or suggest a desire to include alpha-linolenic acid. Pscherer et al. specifically teaches that it is preferred to use a fish oil rich in eicosapentaenoic acid to influence inflammatory processes. See p. 7, lines 20-24.

The UC Berkeley article also appears to teach away from the substitution of flaxseed oil for fish oil. See paragraphs 2 and 3 of "The alpha-linolenic story: oil", which discloses that the human body does not convert alpha-linolenic acid into omega-3 fatty acids as efficiently as fish oil, and that heart benefits are linked to consumption of fish oil, but not flaxseed oil.

Further, the UC Berkeley article does not teach or suggest that either alpha-linolenic acid or flaxseed oil may be used to reduce inflammatory response in animals as taught and claimed in the present invention.

Applicants also wish to point out that Pscherer et al. teach a composition which is essentially 100% fat, while applicants claim a composition containing only 7-14% fat. And, Pscherer's composition is designed to be administered parenterally, not by ingestion like the claimed composition. Nor is there any teaching or suggestion in Pscherer which

optimized  
recited in  
claim 4  
the substitute  
is not  
flaxseed oil  
fish oil

intended  
use  
optimized?

would motivate one skilled in the art to put Pscherer's emulsion into a pet food composition which is ingested.

For all of the above reasons, applicants submit that claims 1-5 are patentable over the cited art of record. Early notification of allowable subject matter is respectfully solicited.

Respectfully submitted,

KILLWORTH, GOTTMAN, HAGAN &  
SCHAEFF, L.L.P.

By *Susan M. Luna*  
Susan M. Luna  
Registration No. 38,769

One Dayton Centre  
One South Main Street, Suite 500  
Dayton, Ohio 45402-2023  
Telephone: (937) 223-2050  
Facsimile: (937) 223-0724

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